IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.221 OF 2004

Rajesh Hari Dixit. ..Appellant.

V/s.

Hiraman Govind Abnave & Ors. ..Respondents.

Mr.P.S.Dani for appellant.

CORAM: A.M.KHANWILKAR,J

DATE : APRIL 25, 2006.

P.C. :

1. Heard counsel for the appellant.

2. I see no reason to interfere with the interlocutory order passed by the court below which is impugned in this appeal from order. The court below has rejected the application Exh. 5, preferred by the appellant/plaintiff seeking temporary injunction against the defendants restraining them from creating third party interest in the suit property till disposal of the suit. No ad-interim order has been ordered in favour of the appellant since institution of this suit. Besides, it is common ground that principle of lis pendense will apply to the suit property which is situated at Pune. In the circumstances, at this distance of time, I see

no propriety in entertaining this appeal. Hence appeal is dismissed leaving all questions open to be decided on its own merits, in accordance with the law.

3. The argument that on refusal of the Interim relief, the suit will become infractuous does not commend to me. The suit will have to be decided on its own merits in accordance with the law. Hence the appeal is dismissed.

4. The trial court is directed to expedite the hearing of the suit as High Court Expedited matter and finally dispose of the suit as early as possible, preferably by end of June, 2007 as the same is of the year 2002.